

E-Filed 12/04/07

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

NI DUAN,

Plaintiff,

v.

MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security, et al.,

Defendants.

Case Number C 07-5753 JF (HRL)

ORDER TO SHOW CAUSE

On November 13, 2007, Plaintiff Ni Duan ("Duan") filed the instant "Complaint For Writ in the Nature of Mandamus and Declaratory Judgment." Duan alleges that Defendants have failed to process her I-485 application in a timely manner.

Duan alleges that on August 15, 2003, she filed a Form I-485 with the United States Citizenship and Immigration Services ("USCIS") seeking to become a lawful permanent resident of the United States based on her marriage to a United States citizen. Complaint ¶ 1-2. Duan additionally alleges that her Form I-485 is still pending with the USCIS. *Id.* at ¶ 3.

Duan asserts that, as a result, Defendants have violated the Administrative Procedures

1 Act, 5 U.S.C § 701 et. seq. and Duan's Fifth Amendment rights. Duan requests that this Court
2 enter an order compelling defendants to act upon his application.

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4 Good cause appearing, IT IS HEREBY ORDERED as follows:

- 5 (1) The Clerk of the Court shall serve a copy of the complaint and a copy of this
6 Order upon counsel for Defendants, the Office of the United States Attorney. The
7 Clerk of the Court also shall serve a copy of this Order upon Plaintiff.
- 8 (2) Defendants shall, within sixty (60) days after receiving service of the complaint,
9 show cause in writing why the relief prayed for should not be granted.
- 10 (3) Plaintiff may file a response to Defendants' filing within twenty (20) days after
11 receipt of such filing.
- 12 (4) Unless otherwise ordered by the Court, the matter will be deemed submitted upon
13 the filing of the response or upon the expiration of time to file a response.
- 14 (5) The order dated November 13, 2007, setting an Initial Case Management
15 Conference and ADR deadlines, is hereby VACATED.

16 IT IS SO ORDERED.

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21 DATED: 12/03/07

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24 JEREMY FOGEL
United States District Judge

1 Copies of Order served on the following persons:

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3 Counsel for Plaintiff:

4 Todd Eric Gallinger
5 Gill & Gallinger LLP
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Irvine, CA 92614

7 Counsel for Defendants:

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